

Q&As: ACCESS TO LEGAL PHARMACEUTICALS ACT¹ (ALPhA)

(H.R. 1652 in the House, S. 809 in the Senate)

Why do we need this Act?

An individual's fundamental right of access to birth control is being attacked. Reports of some pharmacists refusing to fill prescriptions has been documented in twelve states.² The women that were denied were young and old; married and single; with children and without. Even women who were using birth control for other medical reasons aside from preventing conception have been denied access to the birth control pill. The Access to Legal Pharmaceuticals Act ensures timely access to contraception and is crucial to protecting a woman's health and autonomy, and to keeping pharmacists and politicians out of personal, private matters.

Who does this bill protect?

The act protects an individual's access to legal contraception by requiring that if a pharmacist has a personal objection to filling a legal prescription for a drug or device, the pharmacy will be required to ensure that the prescription is filled by another pharmacist employed by the pharmacy who does not have a personal objection.

What types of actions are prohibited?

Pharmacists cannot prevent or deter an individual from filling a legal prescription for drugs or devices. Refusing to return or transfer a prescription is prohibited under the Access to Legal Pharmaceuticals Act. The pharmacist cannot harass, humiliate, or intentionally breach the confidentiality of the individual attempting to fill the prescription for birth control.

If a pharmacist objects to filling a prescription, when does it have to be filled?

The prescription must be filled without delay, and in a time frame consistent with the amount of time it would take the pharmacy to fill a prescription that is not personally objectionable to the pharmacist. Example: If it takes a pharmacy 1 hour to fill prescriptions for diabetes medication, it should take 1 hour to fill a prescription for birth control – no more, or no less.

What if the pharmacy has decided not to stock prescription contraception. Does ALPhA require the pharmacy to stock prescription contraception?

If the pharmacy ordinarily stocks prescription contraception, this legislation provides that if an individual attempts to fill a prescription for a certain type of contraception, and that contraception is not in stock, the pharmacy must order (if the individual so requests) that prescription for that individual. The Access to Legal Pharmaceuticals Act does not require that a pharmacy that stocks some types of prescription contraception stock all types all the time. But if it does stock some types of prescription birth control, then it must order a type it doesn't ordinarily stock for an individual who requests that type of prescription birth control.

Will the pharmacy have to order Emergency Contraception if there is none in stock?

If the pharmacy routinely stocks contraception, then a pharmacist who does not have a personal objection to the prescription must order, without delay, emergency contraception if the individual requests it be ordered after being informed the prescription is not in stock.

¹Prepared by the Office of Carolyn B. Maloney, April 2005.

²The twelve states are: California, Georgia, Louisiana, Illinois, Massachusetts, Minnesota, New Hampshire, North Carolina, Ohio, Texas, Washington, and Wisconsin.

What are the penalties for violating the Access to Legal Pharmaceuticals Act ?

The pharmacy is subject to a private cause of action by the individual whose rights were violated, as well as civil penalties not to exceed \$5,000 per day of violation, not exceeding \$500,000 for all violations adjudicated in a single proceeding.

Who is supporting this legislation?

Members of Congress:

Senate: Sen. Frank Lautenberg, Sen. Barbara Boxer, Sen. Hillary Clinton, Sen. Jon Corzine, Sen. Daniel Inouye

House: Rep. Neil Abercrombie, Rep. Gary Ackerman, Rep. Tom Allen, Rep. Joe Baca, Rep. Brian Baird, Rep. Tammy Baldwin, Rep. Melissa Bean, Rep. Xavier Becerra, Rep. Shelley Berkley, Rep. Howard Berman, Rep. Tim Bishop, Rep. Rick Boucher, Rep. Robert Brady, Rep. Corrine Brown, Rep. Sherrod Brown, Rep. Lois Capps, Rep. Dennis Cardoza, Rep. Russ Carnahan, Rep. Julia Carson, Rep. William Clay, Rep. Emanuel Cleaver, Rep. Joseph Crowley, Rep. Elijah Cummings, Rep. Susan Davis, Rep. Peter DeFazio, Rep. William Delahunt, Rep. Rosa DeLauro, Rep. Norm Dicks, Rep. Eliot Engel, Rep. Anna Eshoo, Rep. Lane Evans, Rep. Sam Farr, Rep. Bob Filner, Rep. Barney Frank, Rep. Charles Gonzalez, Rep. Al Green, Rep. Gene Green, Rep. Raul Grijalva, Rep. Luis Gutierrez, Rep. Jane Harman, Rep. Alcee Hastings, Rep. Maurice Hinchey, Rep. Rush Holt, Rep. Steve Israel, Rep. Jesse Jackson, Jr., Rep. William Jefferson, Rep. Eddie Bernice Johnson, Rep. Nancy Johnson, Rep. Stephanie Tubbs Jones, Rep. Patrick Kennedy, Rep. Ron Kind, Rep. Mark Kirk, Rep. Jim Kolbe, Rep. Dennis Kucinich, Rep. Tom Lantos, Rep. Rick Larsen, Rep. Barbara Lee, Rep. Sheila Jackson Lee, Rep. John Lewis, Rep. Zoe Lofgren, Rep. Nita Lowey, Rep. Edward Markey, Rep. Doris Matsui, Rep. Carolyn McCarthy, Rep. Betty McCollum, Rep. Jim McDermott, Rep. Jim McGovern, Rep. Marty Meehan, Rep. Gregory Meeks, Rep. Robert Menendez, Rep. Michael Michaud, Rep. Juanita Millender-McDonald, Rep. George Miller, Rep. Gwen Moore, Rep. Jim Moran, Rep. Jerrold Nadler, Rep. Grace Napolitano, Rep. John Olver, Rep. Major Owens, Rep. Frank Pallone, Rep. Nancy Pelosi, Rep. Charles Rangel, Rep. Steve Rothman, Rep. Lucille Roybal-Allard, Rep. Martin Sabo, Rep. Linda Sanchez, Rep. Loretta Sanchez, Rep. Jan Schakowsky, Rep. Adam Schiff, Rep. Allyson Schwartz, Rep. Jose Serrano, Rep. Christopher Shays, Rep. Rob Simmons, Rep. Louise Slaughter, Rep. Adam Smith, Rep. Hilda Solis, Rep. Pete Stark, Rep. Ted Strickland, Rep. Ellen Tauscher, Rep. Mike Thompson, Rep. John Tierney, Rep. Chris Van Hollen, Rep. Nydia Velazquez, Rep. Debbie Wasserman-Schultz, Rep. Maxine Waters, Rep. Diane Watson, Rep. Henry Waxman, Rep. Anthony Weiner, Rep. Robert Wexler, Rep. Lynn Woolsey

Organizations: NARAL, Planned Parenthood, National Women's Law Center, American Medical Students Association, American College of Gynecologists and Obstetricians, American Association of University Women.

Statistics

A November 2004 poll conducted by CBS and the NY Times indicated that 8 out of 10 Americans believe that pharmacists should not be permitted to refuse to dispense birth control pills. This opinion was strong despite party affiliation – 85% of Democrats and 70% of Republicans polled squarely opposed pharmacist refusals.